

Remarks

As a preliminary matter, the indication of allowable subject matter in claims 6, 7, 12, and 14 to 18 is once more acknowledged with gratitude, as is the reconsideration of the rejection of claim 8 under 35 U.S.C. § 112, and the objection to claim 23.

Also as a preliminary matter, claims 1, 4, 5, 8, 10, 13, 19, and 20 are cancelled without prejudice herein. Applicants intend to resume the prosecution of these claims in a continuing application.

Withdrawal of Notice of Appeal

Applicants hereby withdraw the Notice of Appeal filed on May 3, 2004. See M.P.E.P. § 1215.02. This withdrawal does not constitute an admission with respect to the cancelled claims or with respect to the reasoning Applicants have set forth regarding the allowability of the cancelled claims. As is noted above, Applicants intend to resume the prosecution of these claims in a continuing application.

Rejection under 35 U.S.C. § 103

Claims 1, 4, 5, 8, 10, 13, 19, and 20 stand rejected under 35 U.S.C. § 103 as obvious over published UK Patent Appln. No. GB 2 164 342 (hereinafter "GB '342") in view of U.S. Patent No. 6,100,321, issued to John Chu Chen (hereinafter "Chen '321"), or International Publication No. WO98/46671, of which John Chu Chen is the sole inventor (hereinafter collectively the "Chen References"). This rejection, which has been rendered moot by the cancellation of claims 1, 4, 5, 8, 10, 13, 19, and 20 without prejudice herein, is the sole reason presented in the Advisory Action dated May 19, 2004, why these claims should not be allowed.

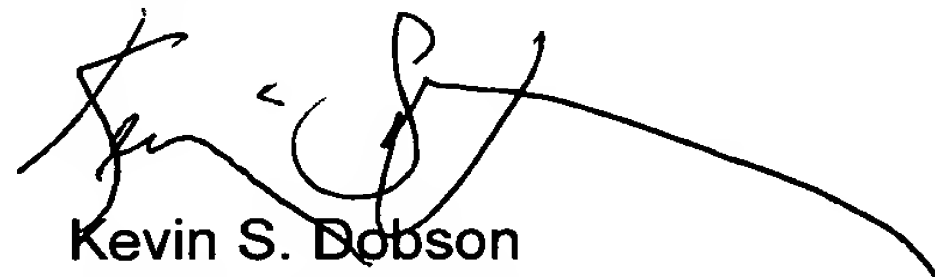
Applicants respectfully maintain, however, that the Advisory Action and the Official Action of February 3, 2004, have not established a *prima facie* case of obviousness, or, in the alternative, that the reasoning set forth in the Response of May 3, 2004, is sufficient to overcome a *prima facie* case based on the cited references.

Moreover, Applicants respectfully take issue with the Advisory Action's stated position that "[t]here is no reason to believe adding metal stearate to [the ionomers of] GB '342 would not be successful." It is thus postulated that a claimed invention is obvious whenever the cited references fail to teach away from it. This postulate, however, plainly contradicts the well-established requirement that an affirmative suggestion to make the claimed combination must be found in the cited references. See, e.g., M.P.E.P. § 2143.

Conclusion

Should any fee be required in connection with the present amendment, the Examiner is authorized to charge such fee to Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company). Should the Examiner believe that an interview or other action in Applicants' behalf would expedite issuance of the patent resulting from this application, the Examiner is urged to contact Applicants' attorney by telephone at (302) 992-3219.

Respectfully submitted,



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